

RESOLUTION NO. 75161

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SETTING A PUBLIC HEARING TO CONSIDER WHETHER TO VACATE A PORTION OF A PUBLIC UTILITY EASEMENT AND RESERVE A WIRE CLEARANCE EASEMENT OVER THE AREA TO BE VACATED LOCATED AT THE REAR OF LOT 22 TRACT 1593 (1542 LARKSPUR DRIVE).

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

Section 1. Pursuant to Chapter 3 of Part 3 of the Division 9 of the Streets and Highways Code of the State of California, the City Council desires to initiate proceedings to vacate a portion of the Public Utility Easement located at the rear of Lot 22 Tract 1593 (1542 Larkspur Drive). Because the Public Utility Easement proposed for vacation contains public service facilities, the City proposes to reserve a Wire Clearance Easement over the area to be vacated. The portion of the Public Utility Easement proposed for vacation is more particularly described in Section 6 of this Resolution.

Section 2. Notice is hereby given that the City Council will conduct a public hearing on the proposed vacation at 1:30 p.m., or as soon thereafter as the matter can be heard, on the 15th day of December 2009, in the Council Chambers located at City Hall on 200 East Santa Clara Street, San Jose, California. At the public hearing, all persons interested in, or objecting to, the proposed vacation may appear and be heard. The City Council will consider all evidence presented at the hearing in order to determine whether to vacate the portion of the Public Utility Easement.

Section 3. On October 14, 2009, the Director of Public Works approved the plat map entitled "Plat Map Showing A Portion Of The Public Utility Easement To Be Vacated" (hereinafter "Plat Map"). The Plat Map shows the portion of the Public Utility Easement proposed for vacation and the Wire Clearance Easement to be reserved. The City Clerk is directed to file the Plat Map in the Office of the City Clerk and to make it available for examination by any persons desiring to do so.

Section 4. The City Clerk is further directed to cause this Resolution to be published in its entirety for at least two successive weeks prior to the public hearing in a newspaper of general circulation in the City of San José.

Section 5. The Director of Public Works is directed to cause notices of the proposed Public Utility Easement vacation to be posted conspicuously along the line of streets proposed to be vacated. The notices shall be posted at least two (2) weeks before the date set for the public hearing. Such notices shall be posted not more than 300 feet apart, but at least three (3) notices shall be posted. The notices shall state the passage of this Resolution and the time and place of the public hearing.

Section 6. The City Council intends to reserve a Wire Clearance Easement over the entire portion of the Public Utility Easement proposed to be vacated, for the purpose of limiting the maximum height of buildings, structures or appurtenances. The portion of the Public Utility Easement proposed to be vacated and reserved as a Wire Clearance Easement are all that real property situated in the City of San Jose described as follows:

The areas within the 10 foot wide Public Utility Easement (PUE) located at the southern-most portion of Lot 22 shown upon that certain map entitled "Tract 1593, Willow Pines", as said tract is recorded in Book 63 of Maps at Page 29, Santa Clara County Records. Said easement is located in the City of San Jose, County of Santa Clara, State of California, and are described as follows:

Area A:

That northern-most 5 foot portion of the 10 foot wide PUE, adjacent to the southerly boundary of said Lot 22 of Tract 1593 and,

Area B:

That 3 by 22 foot area that abuts the northerly 5 foot wide portion being vacated on said 10 foot wide PUE, located 2 feet from the easterly property line of said Lot 22 of Tract 1593.

ADOPTED this 17th day of November, 2009, by the following vote:

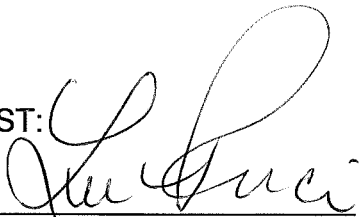
AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

ATTEST:



LEE PRICE, MMC
City Clerk

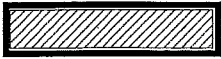


CHUCK REED
Mayor

PLAT MAP

75161

SHOWING A PORTION OF THE PUBLIC UTILITY EASEMENT (PUE)
TO BE VACATED



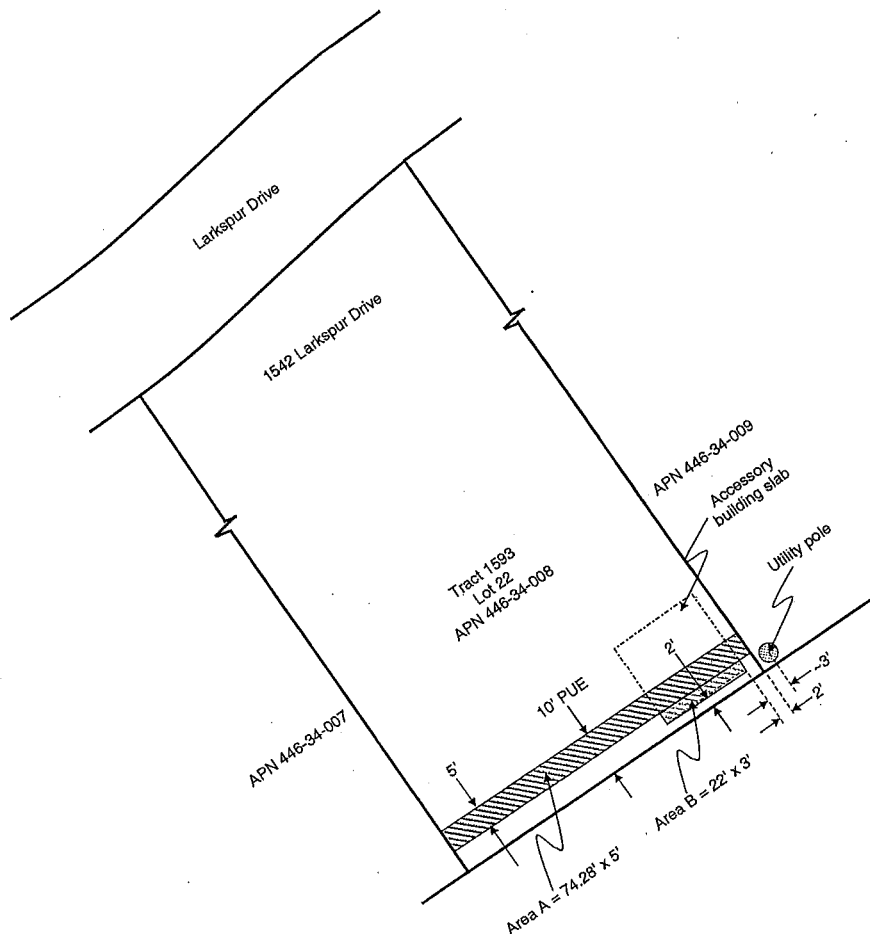
PUE TO BE VACATED AND WIRE CLEARANCE EASEMENT TO BE
RESERVED

FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS 17th DAY OF
November 2009, AND APPROVED BY SAID CITY COUNCIL THIS 17th DAY OF
November 2009 BY RESOLUTION NUMBER 75161

Susan M. Davis
CITY CLERK, CITY OF SAN JOSE

Katy Allen
KATY ALLEN
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE

APPROVED THIS 14th DAY OF October 2009



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

**SUBJECT: PUBLIC UTILITY EASEMENT
VACATION ON LOT 22 OF TRACT
1593 (1542 LARKSPUR DRIVE)**

DATE: 10-26-09

Approved

Date

COUNCIL DISTRICT: 9

RECOMMENDATION

Adoption of a resolution of intention to vacate a portion of an existing 10-foot wide Public Utility Easement while reserving a Wire Clearance Easement over the area to be vacated, located at the rear of Lot 22 of Tract 1593 (1542 Larkspur Drive), and setting a public hearing on December 15, 2009 at 1:30 p.m.

OUTCOME

Adoption of this resolution will declare Council's intention to vacate a portion of an existing 10-foot wide Public Utility Easement (PUE) while reserving a Wire Clearance Easement (WCE) over the area to be vacated and will set a public hearing for December 15, 2009 at 1:30 p.m. for consideration of adoption of a proposed resolution to support the proposed vacation.

BACKGROUND

Donald B. Billings, Jr., owner of the subject property, submitted an application to vacate a portion of an existing 10-foot wide PUE at the rear of Lot 22 of Tract 1593 (1542 Larkspur Drive, map attached). The PUE was created through the recordation of Tract No. 1593 recorded in Book 63 of Maps on page 29, Santa Clara County Records, on October 27, 1955. This application for vacation is needed to remove a portion of this encumbrance from the property and allow the owner to develop his property.

ANALYSIS

Staff has determined that the subject portion of the PUE is not needed for public purposes. All concerned utility companies have been contacted in writing and have no objection to this vacation. In addition, AT&T consented to the vacation with the condition that a WCE be retained over the area to be vacated. As such, staff is proposing the vacation of a portion of the existing PUE with a reservation of a WCE over the area to be vacated.